



Duplicate of #20 Bd of appeal

MAIL STOP APPEAL BRIEF-PATENTS
1501-1111
PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE
THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of

Jan ERIKSSON

Serial No. 09/581,911

Appeal No. 2004-0696

Filed June 19, 2000

GROUP 3643

ANIMAL RELATED APPARATUS

Attn: Craig Feinberg

RESUBMISSION OF REPLY BRIEF

MAY IT PLEASE YOUR HONORS:

Paper No. 19 to the present application is a "Board of Patent Appeals and Interferences Docketing Notice". That paper indicates that there is no record of a Reply Brief being filed. In fact, a Reply Brief was filed on December 8, 2003 (in triplicate).

In order that the record before the Board is correct, appellant provides an additional three copies of the Reply Brief together with a stamped postcard receipt evidencing the timely filing of that Brief.

Should there be any problems with making this Reply Brief of record, it would be appreciated if the undersigned attorney would be contacted.

Respectfully submitted,

YOUNG & THOMPSON

By

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February 9, 2004

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BOARD OF PATENT APPEALS
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MAIL STOP APPEAL BRIEF
PATENTS

1501-1111

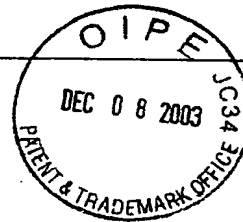
THE STAMP OF THE PATENT OFFICE MAIL HEREON ACKNOWLEDGES THE
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BY SUCH STAMP.

In re: Jan ERIKSSON

S.N. 09/581,911 Group 3643

REPLY BRIEF in response to Examiner's Answer of

October 7, 2003 (in triplicate)



REL/lrs



Mail Stop Appeal Brief Patents
Atty. Docket No. 1501-1111
PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE
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In re application of

Jan ERIKSSON

Serial No. 09/581,911

Appeal No. _____

Filed June 19, 2000

GROUP 3643

ANIMAL RELATED APPARATUS

REPLY BRIEF

MAY IT PLEASE YOUR HONORS:

This reply brief is in response to the Examiner's
Answer of October 7, 2003.

Appellant is not in disagreement with Sections (1) -
(10) of the Examiner's Answer.

Section (11)

Section (11) of the Answer states that the
rejection of Office Action paper No. 15 applies the teaching
of JAKOBSON et al. in view of the teachings of FINGER, with
the Examiner relying on the entire teachings of
JAKOBSON et al. while citing specific areas of
JAKOBSON et al. to illustrate its applicability.

Appellant does not criticize such an approach;
however, appellant points out the need to show specific

disclosure of each recited feature or how such disclosure would nonetheless be apparent to one of skill in the art.

The Examiner now points out the belief that JAKOBSON et al. alone teaches a registering means and a control means for an animal related device and the complete related operation. The Examiner now indicates that JAKOBSON et al. falls short only in not disclosing a registering means and control means for a robot. See the first eight lines of the initial paragraph under Section (11).

Appellant believes the Examiner is trying to substitute a new rejection for the rejection of record. The Official Action of February 13, 2003 on page 2, the last two full sentences reads:

"A registering means (Jakobson et al #14 and #18), a control means adapted to generate a signal (Jakobson et al Col. 6 line 27-28) when a predetermined threshold value has been reached. Jakobson et al is silent on a predetermined threshold value and running value set for each of the animal related device, the robot, and the complete related operation."

Appellant has appealed that rejection. The Examiner has not answered Appellant's appeal of that rejection but has now presented a new rejection, albeit with the same reference.

The Examiner now offers for an animal related device registering means, the JAKOBSON et al. Abstract

teaching of calculating the time since a cow was last milked. The Examiner also now points to the Abstract for a control means that, when sufficient time has elapsed, activates the milking equipment to again milk the cow using a robot (also referring to Column 3, lines 28-36).

It appears that the Examiner now offers the elapsed time measuring system of JAKOBSON et al. as the recited registering means. But the Examiner also appears to offer, as the predetermined threshold value, a sufficient time having elapsed so as to permit a further milking of the cow. This misconstrues the invention and the recitations of the claims.

Recall, the Examiner has agreed to Appellant's summary of the invention.

As briefed, the invention provides for improved maintenance of a system by using: 1) a registering means to accumulate a running value, e.g., for the animal related device (see claim 2) or using the device in an animal related operation, and 2) a control means to generate a signal when a predetermined threshold value of the running value is reached.

Indeed, claim 1 recites that the predetermined threshold value is set for at least one animal related device and a complete animal related operation. With reference to claims 2-7, the animal related device may be a milking pulsator, the registering means tracks the pulsator running time, and the control means signals when the

pulsator reaches its predetermined cumulative running time. The running value could be the number of pulsations generated by the pulsator.

Other recited examples are the running time of a teat location device (claim 8), the running time of a teat cleaning device (claim 9), and running time of a gate operator (claim 10).

From the claims it is clear that the predetermined threshold value is set for an animal related device and usage of such device, and that the running value/time relates to usage of an animal related device not to the animal. There is no recitation of monitoring the cow's activities.

As briefed, the invention concerns accurate monitoring of equipment running values and timely signaling when reaching a threshold value to allow for efficient maintenance of equipment or completion of a task when monitoring the running time of an animal operation.

The Examiner, in seeking a new ground for rejection, misconstrues the claims' recitations.

As previously acknowledged by the Examiner, JAKOBSON et al. does not register time components relating to equipment. Although JAKOBSON et al. does teach improving cow milking, JAKOBSON et al. does not teach how to improve maintenance of such milking equipment as recited in the rejected claims. Nor would modification of JAKOBSON et al.

be obvious in view of the secondary references. Thus, the rejections fail.

As to the Examiner's comment concerning Appellant having considered prior art references not cited, the undersigned attorney is embarrassed and apologizes for an incorrect conclusion paragraph having been included in the Appeal Brief. This, however, does not detract from the Examiner having failed to present viable obviousness rejections.

Summary

The Examiner, in not defending the pending rejection and in presenting a new basis for rejection, implicitly acknowledges that the pending rejections over JAKOBSON et al. are not viable and that the claims are non-obvious.

In view of Appellant's Appeal Brief and the foregoing, it follows that: 1) the rejection of claims 1-4 and 8-10 as obvious over JAKOBSON et al. in view of FINGER, and 2) the rejection of claims 5-7 as obvious over JAKOBSON et al. in view of INNINGS et al., are both improper and should be reversed.

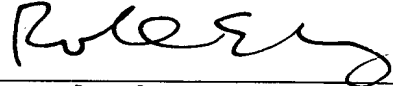
ERIKSSON S.N. 09/581,911

Accordingly, reversal of the pending obviousness rejections is respectfully solicited.

Respectfully submitted,

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December 8, 2003